

DETAILED ACTION

1. Amendment of claims 1 and 4 and cancellation of claims 3 and 12-19 in the amendment filed on November 12, 2008 is acknowledged. Claims 1-2 and 4-11 are pending in the application.

EXAMINER'S AMENDMENT

2. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee. Authorization for this examiner's amendment was given in a telephone interview with Joseph F. Murphy on November 24, 2008. The application has been amended as follows:

In claim 10, line 3, after "cilexetil", insert

--1,4-dioxane solvate of claim 1--

Delete claim 11.

Reasons for Allowance

3. Since claim 19 has been canceled, the rejection of claim 19 under 35 U.S.C. 112, first paragraph or 102(b) has been obviated.

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4. The rejection of claims 1-2 and 4-10 under 35 U.S.C. 103(a) over Naka et al. US 5,196,444 has been overcome in the amendment filed on November 12, 2008. The instant invention is distinct from Naka et al. '444, and Naka et al. '444 does not render obviousness over the instant invention. Since claims 3 and 19 have been canceled, the rejection of claims 3 and 19 under 35 U.S.C. 103(a) has been obviated herein.

5. Claims 1-2 and 4-10 are neither anticipated nor rendered obvious over the art of record, and therefore are allowable. A suggestion for modification of a reference to obtain the instant compounds has not been found. Claims 1-2 and 4-10 are allowed.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance".

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rei-tsang Shiao whose telephone number is (571) 272-0707. The examiner can normally be reached on 8:30 AM - 5:00 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph K. McKane can be reached on (571) 272-0699. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from

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/REI-TSANG SHIAO /

Rei-tsang Shiao, Ph.D.
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